

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF SHEET METAL WORKERS
INTERNATIONAL ASSOCIATION-LOCAL NO. 38,
VACATION FUND, SHEET METAL WORKERS
INTERNATIONAL ASSOCIATION LOCAL NO. 38
INSURANCE AND WELFARE FUND, SHEET
METAL WORKERS INTERNATIONAL
ASSOCIATION LOCAL NO. 38 PROFIT SHARING
PLAN, SHEET METAL WORKERS LOCAL 38
LABOR MANAGEMENT COMMITTEE AND
TRUST, SHEET METAL WORKERS LOCAL 38
CRAFT TRAINING FUND, SHEET METAL
WORKERS NATIONAL PENSION FUND, SHEET
METAL WORKERS LOCAL 38 CRAFT TRAINING
BUILDING FUND, TRUST FUNDS established and
administered pursuant to federal law,

Docket No.: 09-cv-5088(KK)

Assigned to:
Hon. Kenneth M. Karas

Plaintiffs,

-against-

LAWRENCE P. HOPWOOD, MARTIN M.
HOPWOOD, JR. and RICHARD J. HOPWOOD,
individually,

Defendants,

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**DECLARATION OF JOHN J. HOPWOOD IN SUPPORT OF DEFENDANTS'
MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

John J. Hopwood, Esq., declares pursuant to the provisions of 28 U.S.C. §1746, as follows:

1. I am one of the attorneys for defendants **MARTIN M. HOPWOOD, JR. and RICHARD J. HOPWOOD, individually**, in this matter. I make this declaration in support of defendants', **MARTIN M. HOPWOOD, JR. and RICHARD J. HOPWOOD, individually**, Memorandum of Law in Opposition to Plaintiffs' Motion for Partial Summary Judgment.

2. The purpose of the Declaration is to identify the materials being submitted by the defendants in opposition to the plaintiffs' partial motion for summary judgment, which materials are referred to and discussed in defendant's Memorandum of Law and defendants, Martin M. Hopwood and Richard J. Hopwood's, affidavits in support of defendants' opposition to plaintiffs' motion for partial summary judgment. This Declaration is also to attest to the authenticity and correctness of the copies of documents being submitted as exhibits. The exhibits consist of essentially three types of documents: (i) transcripts of depositions taken in related actions; (ii) defendants' discovery responses; and (iii) other documents. I have personal knowledge of the documents and underlying facts surrounding said documents as stated herein and could competently testify thereto if called as a witness herein. As argued in the Preliminary Statement to defendants' opposition to plaintiffs motion for partial summary judgment, the plaintiffs have failed to submit a Rule 56.1 Statement in support of their motion as required by the Local Rules for the Southern District of New York. Therefore, the defendants' have not included a Counter Statement Pursuant to Rule 56.1.

3. Attached hereto and incorporated herein as **Exhibit A** is a copy of Defendants' Martin M. Hopwood, Jr. and Richard J. Hopwood's Answer to Amended Complaint.

4. Attached hereto and incorporated herein as **Exhibit B** is the Notice to Take Deposition Upon Oral Examination of Plaintiffs dated August 25, 2010.

5. Attached hereto and incorporated herein as **Exhibit C** is a copy of Defendants' First Set of Interrogatories and Request for Production of Documents.

6. Attached hereto and incorporated herein as **Exhibit D** is a copy of Plaintiffs' Response to Defendants' First Set of Interrogatories.

7. Attached hereto and incorporated herein as **Exhibit E** is a copy of Richards' letter dated August 21, 2009.

8. Attached hereto and incorporated herein as **Exhibit F** is a copy of the "Examiner's Report: On Debtor's Handling of Post-Petition Taxes".

9. Attached hereto and incorporated herein as **Exhibit G** is a copy of the "Examiner's Report: On Status of Debtor's Books and Records".

10. Attached hereto and incorporated herein as **Exhibit H** is a copy of the "Examiner's Report: On Potential Avoidance Actions Against Insiders".

11. Attached hereto and incorporated herein as **Exhibit I** is a copy of the "Examiner's Report: On Debtor's Handling of Trust Funds".

12. Attached hereto and incorporated herein as **Exhibit J**, in Parts 1-7 is a copy of the Debtor's Verified Statement.2

13. Attached hereto and incorporated herein as **Exhibit K**, in Parts 1-4 is a copy of the Debtor's Supplemental Verified Statement.

14. Attached hereto and incorporated herein as **Exhibit L**, in Parts 1-2 is a copy of Martin M. Hopwood, Jr.'s 2004 transcript from November 20, 2009.

15. Attached hereto and incorporated herein as **Exhibit M**, in Parts 1-2 is a copy of the Affidavit of Steven Colletta with Partial Attachments.

16. Attached hereto and incorporated herein as **Exhibit N** is a copy of the Corporate Resolution of 3/29/04.

17. Attached hereto and incorporated herein as **Exhibit O** is a copy of the Corporate Resolution of 2/2/06.

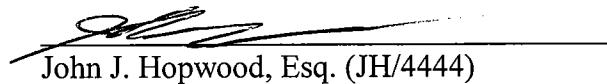
18. Attached hereto and incorporated herein as **Exhibit P** is the "Richards Bankruptcy Court Docket".

19. Attached hereto and incorporated herein as **Exhibit Q** is the Affidavit of Richard J. Hopwood.

20. Attached hereto and incorporated herein as **Exhibit R** is the Affidavit of Martin M. Hopwood.

21. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 8th day of November, 2010.



John J. Hopwood, Esq. (JH/4444)